

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Marco Antonio RAMOS,

'08 MJ 0904

Magistrate Case No.

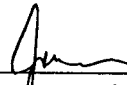
COMPLAINT FOR VIOLATION OF:

Title 18, U. S. C., Section. 111  
Assault on a Federal Officer  
(Felony)

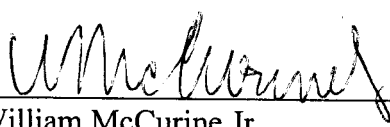
The undersigned complainant, being duly sworn, states:

That on or about **March 22, 2008**, within the Southern District of California, defendant **Marco Antonio RAMOS**, did forcibly assault, resist, oppose, impede and interfere with Agent Martin McDermott, an agent of the United States Border Patrol, while Agent Martin McDermott was engaged in or on account of the performance of his official duties; a felony, in violation of Title 18, United States Code, Sections 111 and 1114.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
\_\_\_\_\_  
Signature of Complainant  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME, AND SUBSCRIBED IN MY PRESENCE THIS 24<sup>th</sup> DAY OF MARCH 2008.

  
\_\_\_\_\_  
William McCurine Jr.  
UNITED STATES MAGISTRATE JUDGE

## CONTINUATION OF COMPLAINT:

Marco Antonio RAMOS

## PROBABLE CAUSE STATEMENT

On Saturday March 22, 2008, at approximately 6:50 p.m., Supervisory Border Patrol Agent (SBPA) M. McDermott stopped at the 7-Eleven convenience store located at 12918 Campo Road, Jamul, CA 91935. Agent McDermott is assigned to the 5:00 p.m. thru 1:00 a.m. shift at the Office of Border Patrol, San Diego Sector, El Cajon Station and was en route to the El Cajon Station, Tecate Office and was wearing the prescribed Border Patrol Rough Duty Uniform with his badge and shoulder patches prominently displayed. Agent McDermott was driving marked Border Patrol Vehicle No. K2170.

The 7-Eleven is located at the corner of CA State Route (SR)-94 and Steele Canyon Road in Jamul, California and is known to El Cajon Border Patrol Agents as a staging point for human and narcotics smugglers and as being frequented by local drug dealers. Agent McDermott observed two men exchanging money through the passenger side window of a gray pickup truck bearing a California License Plate and believed that a drug or smuggling transaction was taking place. After the two men completed the transaction they realized that Agent McDermott had witnessed it and one of them, later identified as the defendant **Marco Antonio RAMOS**, aggressively approached Agent McDermott and said, "what's up dog?" Agent McDermott inquired as to the nature of RAMOS' monetary transaction.

The second subject, who was later identified as Hector Daniel HERNANDEZ, began approaching Agent McDermott and shouting in an attempt to interrupt the conversation Agent McDermott was having with RAMOS. During the subsequent verbal exchange, RAMOS and HERNANDEZ refused to produce identification, and lied about their mode of transportation and that they had conducted a monetary transaction. The refusal to produce identification, deceptive statements regarding their mode of transportation, and inability to provide a credible explanation of their monetary transaction enhanced Agent McDermott's belief that RAMOS and HERNANDEZ were involved in an alien smuggling or narcotics transportation offense.

RAMOS and HERNANDEZ pushed past Agent McDermott and entered the 7-Eleven. Agent McDermott requested assistance from any available Agent in order to safely conduct a field interview with RAMOS and HERNANDEZ. Agent McDermott could see RAMOS and HERNANDEZ through the window of the 7-Eleven and observed them conversing and noticed that they did not purchase anything from the store. This further raised Agent McDermott's suspicion that RAMOS and HERNANDEZ were present at the 7-Eleven to engage in some activity other than the lawful patronage of the establishment. RAMOS and HERNANDEZ exited the 7-Eleven and spoke in hushed tones as they approached Agent McDermott's position.

At approximately 6:53 p.m., Agent McDermott again attempted to conduct a field interview with the pair and RAMOS pushed past Agent McDermott. Agent McDermott issued a clear verbal command for the two to stop and RAMOS and HERNANDEZ responded with profanity laden harangue and statements to the effect that they were not going to comply with the verbal command. Agent McDermott began walking after HERNANDEZ and RAMOS and again issued a clear verbal command for the two to stop. RAMOS, who was little more than three feet from Agent McDermott, stopped, turned to face Agent McDermott, and assumed an aggressive crouched fighting stance. RAMOS shouted "you better get the fuck away from me or I am going to fuck you up!"

Agent McDermott immediately sprayed a three second burst of his Customs and Border Protection (CBP) issued Oleoresin Capsicum (OC) spray into RAMOS' face. RAMOS began throwing punches and attempting to tackle Agent McDermott. During the brief physical exchange both RAMOS and Agent McDermott fell to the ground. HERNANDEZ did not participate in the assault and attempted to subdue RAMOS after RAMOS and Agent McDermott fell to the ground.

## CONTINUATION OF COMPLAINT:

Marco Antonio RAMOS

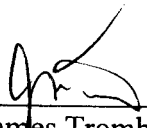
Agent McDermott extricated himself from the physical altercation, drew his CBP issued firearm, and issued a clear verbal command for RAMOS and HERNANDEZ to lay down on the ground and to place their hands behind their backs. HERNANDEZ complied and RAMOS did not. A third subject, later identified as Angel TORRES-ZAVALA appeared and began making excited statements and indicated that RAMOS was a relative of his. Agent McDermott ordered TORRES to the ground as well and TORRES complied.


RAMOS continued to resist and, as Agent McDermott was attempting to place handcuffs on RAMOS, an unidentified male asked Agent McDermott if he needed assistance. Agent McDermott stated that he did need assistance and tossed a pair of handcuffs to the unidentified male and asked him to place them on HERNANDEZ. HERNANDEZ attempted to get up and Agent McDermott ordered him to the ground. The unidentified citizen placed the handcuffs on HERNANDEZ and left the scene.

At approximately 7:00 p.m., San Diego Sheriff's Deputy Weisner arrived and assisted Agent McDermott.

Border Patrol Agents from the Brown Field and El Cajon Border Patrol Stations also arrived on scene and assisted. The defendant was treated for the OC spray exposure and minor injuries and then placed under arrest for assault on a federal officer.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present.

  
James Trombley  
Senior Patrol Agent

  
William McCurine Jr.  
U.S. Magistrate Judge

3/24/08 1002hrr  
Date/Time